

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of

Connect America Fund

Petition for Clarification or Declaratory  
Ruling on the Definition of Location for  
Home Offices Under the Connect America  
Fund-Alternative Connect America Cost  
Model

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WT Docket No. 10-90

**COMMENTS OF  
NTCA–THE RURAL BROADBAND ASSOCIATION  
REGARDING NORTHEAST IOWA TELEPHONE COMPANY AND WESTERN IOWA  
TELEPHONE ASSOCIATION PETITION FOR CLARIFICATION OR  
DECLARATORY RULING**

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits these Comments in response to the Petition for Clarification or Declaratory Ruling filed with the Federal Communications Commission (the “Commission”) by Northeast Iowa Telephone Company (“NEIT”) and Western Iowa Telephone Association (“WIATEL”) (collectively, “Petitioners”) pertaining to the definition of locations under the Alternative Connect America Cost Model (“A-CAM”) for residences that also serve as businesses.<sup>2</sup> NTCA shares the concerns raised by

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<sup>1</sup> NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

<sup>2</sup> Northern Iowa Telephone Company and Western Iowa Telephone Ass’n, Petition for Clarification or Declaratory Ruling, WC Docket No. 10-90 (filed May 6, 2019) (“Petition”).

Petitioners that the guidance contained in USAC’s HUBB FAQ document regarding when a home-based business should be counted as a separate location for purposes of A-CAM requirements is inconsistent with the Commission’s rules and orders – as well as industry practice and realities “on the ground” in rural America – and therefore needs to be clarified or modified.

## **I. THE FAQ IS INCONSISTENT WITH THE COMMISSION’S RULES AND ORDERS**

Petitioners noted that USAC’s HUBB FAQ document states, “For a carrier to count a business run out of a house or a business run out of a barn, shed or other structure on the property, there must be a separate facilities (drop/line) and separate equipment (e.g., modem) and the business *must separately subscribe* (get its own bill) to at least the minimum speed required.”<sup>3</sup> NTCA agrees with Petitioners that such guidance requiring actual subscription is inconsistent with the Commission’s rules and orders, which nowhere limit locations to those that actively order service. To the contrary, the relevant rules and orders expressly contemplate counting locations that do *not* have service but could receive it within ten (10) business days upon request.<sup>4</sup> The Commission even issued further guidance on identifying locations, stating that “[t]he latitude/longitude of location should be situated somewhere on the parcel of the

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<sup>3</sup> Petition at p.4 (emphasis provided).

<sup>4</sup> 47 C.F.R. § 54.310(c). *See also*, Connect America Fund, et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3133, ¶ 121 (2016) (“Rate-of-Return Reform Order”) (“For purposes of meeting the requirement to ‘offer’ service, the competitor must be willing and able to provide qualifying voice and broadband service to a requesting customer within ten business days.”).

location.”<sup>5</sup> Thus, the Commission’s rules not only do not distinguish between deployment to a residence or business, but they also do not distinguish between deployment to properties that contain multiple residences or businesses – or a mix of both. Rather, the rules simply require that broadband service is, or can be within ten business days following a request for service, available to each of the locations reported to the HUBB. Although the Commission’s rules appear to not only contemplate this issue but also clearly “define” it – and while the Commission’s rules, not USAC’s FAQ, govern – the FAQ could result in discrepancies among locations reported as well as significant confusion among carriers.

## **II. THE GUIDANCE CONTAINED IN THE FAQ DOES NOT REFLECT THE REALITIES AND CHALLENGES OF DEPLOYING NETWORKS AND DELIVERING SERVICES IN RURAL AREAS**

NTCA recognizes the need for, and shares the Commission’s interest in, ensuring carriers’ accountability when reporting locations served. But many rural locations simply do not fit within the confines of the FAQ. As a result, if providers were expected to follow the FAQ strictly in lieu of the rules and orders that govern, such a result would not only be inconsistent with the Commission’s rules and orders defining serviceable locations, but this would also undermine generally the goals of connecting high-cost rural areas. Recently, for example, the Commission has rightly highlighted the importance of promoting smart-ag applications and capability.<sup>6</sup> Yet the guidance, if enforced as written, could result in many locations critical for

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<sup>5</sup> Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations, *Public Notice*, DA 16-1363 (rel. Dec. 8, 2016) (“Location Guidance Public Notice”).

<sup>6</sup> See, e.g., FCC Announces the Establishment of the Task Force for Reviewing Connectivity and Technology Needs of Precision Agriculture in the United States and Seeks Nominations for Membership, *Public Notice*, DA 19-568 (rel. June 17, 2019).

precision agriculture and other agribusiness applications – ranging from irrigation systems and center pivots to hog facilities and grain silos – being discounted or disregarded altogether when determining what kinds of locations need broadband. Such locations should not be disregarded simply because they sit on the same property as a farm residence in a separate structure, or one that is attached, any more than an apartment in a multi-dwelling unit should be disregarded simply because it has not yet ordered broadband and shares a structure with another apartment.

As Petitioners noted, the FAQ “seems to require separate facilities (drop/line) and separate equipment (e.g., modem) for the home-based business.”<sup>7</sup> Yet, as noted previously, nowhere in the Commission’s rules and orders can such a requirement be found – and to the contrary – the rules and orders contemplate and properly recognize that not every serviceable location will in fact order service or be served by a drop on day one. Indeed, requiring a separate drop/line in order for a business located on the same property as a residence to count as a separate location is wholly inconsistent with how broadband providers deliver service and would result in either inaccurate location counts or a much higher cost to providers, or possibly both.<sup>8</sup> Thus, the Commission should adhere to its original rules and orders, which better reflect the ways in which providers operate and the realities “on the ground” in rural America. To the extent there is concern that such guidance would lead to “over-reporting” of locations – and, as discussed below, NTCA believes its recommended adjustments to the FAQ guidance would deter that – the Commission should examine its own cost model to determine precisely how rural

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<sup>7</sup> Petition at p. 5.

<sup>8</sup> It might also be noted that this could create the odd result in which a business sharing a structure with a residence orders a connection – leading to two locations being counted in that structure even though, had the residence ordered the service instead, only one location would be counted.

business locations were defined and counted in that program, as this examination could yield useful information and ultimately deliver the sort of clarification that is presently lacking in the public record.

### **III. THE FAQ SHOULD BE MODIFIED TO REFLECT THE UNDERLYING RULES AND ORDERS WITH RESPECT TO BROADBAND DEPLOYMENT OBLIGATIONS**

Given that the rules and orders contemplate differing treatment of locations than the USAC FAQ, and in light of the realities of the kinds of locations to be served in rural America, NTCA urges the Commission (or its staff) to direct USAC promptly to modify the FAQ. Specifically, NTCA recommends the Commission make the following change to the FAQ:

#### **Q. How should a carrier report deployment at a residence that also has a home-based business within the same structure?**

A.. A carrier receives credit for and must report ~~the house~~ as a served location a residence at which broadband is available, regardless of whether the ~~house~~ resident subscribes to the service. A carrier likewise receives credit for and must report as a served location a business at which broadband is available, regardless of whether the business subscribes to the service.

For a carrier to count as a separate location a business that shares a physical structure with a residence and thereby count the residence and home-based business in that same structure as two separate units (and thus two separate locations) for reporting and deployment milestone purposes, the carrier must validate the existence of the home-based business based upon sources of business information where available (e.g., a governmental agency registration or other indications of business activity) and provide such information to USAC upon request. ~~run out of a house or a business run out of a barn, shed or other structure on the property there must be separate facilities (drop/line) and separate equipment (e.g., modem) and the business must separately subscribe (get its own bill) to at least the minimum speed required.~~ See DA-16- 1363 WCB Guidance on Location Reporting for Carriers Receiving CAF Support.

Such a change would make the FAQ consistent with the Commission's rules and orders, while also accounting for the fact that broadband providers often receive requests to deploy service to many different types of structures and serviceable locations in rural areas.

The Commission noted in its Order establishing location reporting requirements for rate-of-return eligible telecommunications carriers that the location data “will provide an objective metric showing the extent to which they are using funds to advance as well as preserve universal service in rural areas, demonstrating the extent to which they are upgrading existing networks to connect rural consumers to broadband.”<sup>9</sup> NTCA recognizes, and agrees with, the Commission’s need to ensure reported locations (or structures) truly are capable of being served by a broadband provider as opposed to allowing every structure to be counted simply because it exists. The Commission’s orders in fact already differentiate between acceptable and unacceptable structures for purposes of location reporting.<sup>10</sup> To further ensure providers report only qualifying locations, NTCA suggests requiring providers to validate, upon request by USAC, the existence of the business at that location based upon sources of business information. Such a requirement would satisfy the Commission’s goal of ensuring providers report only serviceable (and serviced) locations while simultaneously adhering to rules that recognize businesses in rural areas often don’t look like those in urban areas and yet still depend upon broadband service. By contrast, the current FAQ “overcorrects” and interprets the rules and orders in a way that simply cannot be squared with their plain language. Thus, NTCA urges the Commission to instruct USAC to modify the HUBB FAQ to mirror the Commission’s existing requirements rather than create a subscription requirement that is both inconsistent with the Commission’s rules and orders and unnecessary to fulfill the Commission’s goals with respect to accountability.

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<sup>9</sup> Rate-of-Return Reform Order at 3165.

<sup>10</sup> See, e.g., Location Guidance Public Notice; HUBB Public Notice, 31 FCC Rcd at 12905 (discussing when a location need not be occupied to be counted as a served location).

#### IV. CONCLUSION

Accurately identifying the locations that providers serve or have the ability to serve is too important to get wrong or subject to a best guess. Broadband providers who guess wrong risk being subjected to fines or losing serviceable locations, while those businesses that share land or a structure with a residence could risk delays in receiving broadband service to their shared or outlying structures or face higher costs while the provider acquires and installs the additional equipment necessary for such structures to count as a location in the HUBB. Accordingly, the Commission should direct USAC to modify the FAQ as suggested in these Comments to strike a balance between accountability and flexibility that reflects rural realities and is consistent with the Commission's rules and orders.

Respectfully submitted,



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